

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DUSTIN PATRICK CURTIS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:23-cv-1055 AGF
)	
STATE OF MISSOURI, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff Dustin Curtis commenced this civil action under 42 U.S.C. § 1983 on August 22, 2023, by filing a handwritten document complaining about conditions of confinement at the St. Charles County Correctional Center. ECF No. 1. On August 29, 2023, the Court issued an Order finding Plaintiff's filing defective as a complaint initiating a civil action because it was not drafted on a Court-provided form as required by Local Rules. ECF No. 3; *see also* E.D. Mo. L.R. 2.06(A). As such, the Court directed Plaintiff to file an amended complaint on the Court's form. In that same Order, the Court also directed Plaintiff to either pay the full filing fee or file a motion for leave to proceed *in forma pauperis*. ECF No. 3; *see also* 28 U.S.C. § 1915(a)(1); E.D. Mo. L.R. 2.01(B)(1). The Court cautioned Plaintiff that his failure to timely comply with its Order would result in the dismissal of his case without further notice. Plaintiff's response was due by September 28, 2023. However, on October 10, 2023, Plaintiff filed a Notice of Appeal with the Eighth Circuit Court, listing five cases including this one. On January 2, 2024, the Eighth Circuit Court dismissed Plaintiff's appeal for lack of jurisdiction as being premature. ECF No. 16. The corresponding mandate issued January 25, 2023, and this Court recovered jurisdiction over this matter. ECF No. 17.

Plaintiff's response to the Court's August 29, 2023, Order was due by September 29, 2023. He filed his Notice of Appeal over a week after missing that deadline. Furthermore, in the time since his appeal was dismissed, Plaintiff has neither responded to the Court's Order, nor sought additional time to do so. Plaintiff was given meaningful notice of what was expected, he was cautioned that his case would be dismissed if he failed to timely comply, and he was given ample time to comply. The Court will therefore dismiss this action, without prejudice, due to Plaintiff's failure to comply with the Court's August 29, 2023, Order, and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (the authority of a court to dismiss *sua sponte* for lack of prosecution is inherent power governed "by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases"); *Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice. *See* Fed. R. Civ. P. 41(b). A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 12th day of February, 2024.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE